

<p align="center"><b>The Industry Association of Building and Property Inspectors in WA Inc – Inspect WA</b></p>	
<p align="center"><b>Position Paper 2022.2</b></p>	
<p align="center"><b>Title: Inspector Interaction with Builders on Construction Sites</b></p>	
Subject	Inspector Interaction with Builders on Construction Sites
Association Position	See Below
Date Preparation Commenced	November 22
Final Approval by Committee and Release to Members	November 22
Why was the Paper Released	Through the Associations involvement with the HIA Compliance Forum Inspect WA has become aware of concerns being expressed from by some Builders in regard to WA Building Inspectors attempting to or purporting to instruct Builders on construction issues and required remediation work on construction sites.
Key References	AS4349.0 HIA and MBA Building Contracts Home Building Contracts Act
Key Issues for Consideration	<ul style="list-style-type: none"> <li>• The importance of maintaining working relationship and the associated contractual obligations between Builders and Clients.</li> <li>• The role and legal status of building inspectors undertaking construction inspections.</li> <li>• The potential adverse impact of building inspection reports which contain unsubstantiated claims of defect work and or unnecessary criticism of builders.</li> <li>• The importance of building inspectors being able to substantiate claims of defective works.</li> <li>• It is important to Inspect WA that its Inspector Members always act in a professional manner while acknowledging their Contractual obligations and boundaries.</li> </ul>
Disclaimer	This document is not intended to be Legal Advice. The document is only intended for Members of The Industry Association of Building and Property Inspectors in WA. Where appropriate, readers of the document should seek their own independently legal advice.

Signed Chairman

The Industry Association of Building and Property Inspectors in WA – Inspect WA

November 22

### Public Release – Position Paper 2022.2 – November 2022

**The Industry Association of Building and Property Inspectors in WA Inc – Inspect WA is pleased to announce the release of its Position Paper on Inspector Interactions with Builders on Construction Sites.**

## 1 Background

There were a number of key issues that contributed to the release of this Position Paper:

1. Some WA Builders (“Builders”) have expressed concerns that some WA Building Inspectors (“Inspectors”) have attempted to instruct or demand that the Builders take certain actions or works on construction sites when the Inspectors have no legal standing to do so.
2. The action of some Inspectors has had the potential or has undermined the key relationship between Builders and their clients (“Clients”) during builds.
3. Some Inspectors have expressed views on construction defects which cannot be substantiated.
4. There is no documented evidence that the above issues related to Inspector Members of Inspect WA. However, Inspect WA wants to ensure that its Inspector Members, their Clients, Builders and broader industry participants understood the position of Inspect WA and its expectations on its Inspector members.
5. The residential Construction industry in WA is unique. In the main there are currently no independent checks on non-strata residential construction works. The Builder named in the Building Permit is required to self-assess all construction work undertaken on the site.
6. Given the lack of independent review of residential builds, there is a growing trend for Clients to engage Inspectors to undertake an independent review of construction works at various stages throughout the construction process.

## 2 The Associations position is:

### 2.1 Inspectors

1. Inspect WA Inspectors are appointed by their clients to conduct construction inspections in accordance with AS 4349.0. The Inspectors primary responsibility is to their Clients.
2. Inspectors acknowledge that they have no legal standing in the contractual relationship between the Builder and the Client. Inspectors have no legal ability to instruct a Builder to take any specific action on a construction site.
3. The role of the Inspectors is not an adversarial role. The role of the Inspectors is to provide independent, unbiased, professional advice and observation on construction issues to their Client. Their advice and observations should be in writing and directed

toward their Client. Inspectors must acknowledge that these views are likely to be shared with the Client's Builder.

4. Inspectors must recognise the key contractual relationship is between Builders and their Clients notwithstanding that the Clients are also clients of the of the Inspector.
5. The overriding objective is always to enable the Builder to complete their contractual obligations to the Client in an efficient, compliant, effective and professional manner. Inspectors need to ensure that the wherever possible they support and do not hinder this position.
6. Inspectors must acknowledge and be cognisant that their Building Inspection reports which indicate incomplete and or defective works may undermine the relationship between the Builder and the Client. As a consequence, Inspectors must ensure that the language used in reports is professional, unbiased and descriptive of the underlying issue. Language needs to reflect the significance of the issues being described.

## 2.2 Clients

1. The level of understanding individual Clients have in relation to the construction process can vary markedly. Some Clients are very astute and have engaged builders to construct a large number of builds. Other clients have never had any exposure to the construction processes and may be overwhelmed by the construction processes. Inspectors have the potential to have a significant positive or negative impact on the relationship between Clients and their Builders.
2. There can be an expectation gap between Builders and Clients. There can be a myriad of reasons as to how and why this expectation gap exists. Inspectors have the potential to assist in the closure of this gap during the build process and should actively attempt to do so to enable the Client's broader objectives to be achieved.
3. Clients will turn to their Inspectors for guidance and assistance during the construction process. They will generally want professional, unbiased and descriptive advice on any identified issues which assist them achieve the overall build objectives.
4. The content contained within Inspector reports may result in:
  - a. The relationship between the Builder and Client being eroded
  - b. The Client making a formal complaint the Regulator
  - c. The Client invoking dispute procedures within the underlying contractAll of the above has the potential to have a significant impact on the build journey.
5. Clients may feel it is necessary to invoke dispute management options. Where appropriate, Inspectors should look to support their clients through these processes.

## 2.3 Builders

1. Professional Builders are in the business of constructing buildings and will look for repeat business and ongoing referrals. The majority of builders set out to deliver a quality product consistent with their contractual obligations.
2. Construction is not an exact science. Issues can occur on a construction site. Quality Builders will often recognise these issues and look to remediate at the earliest opportunity. On occasions issues identified in Inspector reports will already be known by the Builder whom may already have remediation strategies.
3. Build quality can vary significantly between Builders. The minimum build requirements are reasonably well documented.
4. The Construction industry can be impacted by material and trade supply issues which can impact the quality and timing of builds.

5. Many Builders will embrace the use of independent Inspectors by their Clients. In essence these inspections can represent an independent expert review of a construction which may assist Builder's delivery a higher quality and compliant product to their Client. Identification and remediation of issues along the build journey can also reduce the overall build costs.

## 2.4 Inspectors

1. Quality inspectors are Registered Builders in their own right and have constructed a diversity of buildings over many years.
2. Quality inspectors should be able to contribute another set of qualified and experienced views as to the progress of build, consistent with the terms of their engagement.
3. Inspectors conduct construction inspection under AS 4349.0 which requires them to clearly define who their Client is. Inspectors are required to represent the position of their clients which would include:
  - a. Identification of defective or incomplete construction work when required by the scope of their engagement
  - b. Assistance in assessing construction work
  - c. Assistance in progressing the overall build so as to ensure the broader objectives can be achieved
4. Inspectors have no authority to directly instruct Builders in regard to any construction activity. Building inspectors can offer observations or recommendations to Builders.

## 3 **Summary**

1. Residential Construction work is generally undertaken on tightly worded standard contracts between Builders and their Clients. Inspectors have no formal role in the relationship between Builders and their Clients and as such cannot instruct Builders to take any action.
2. Given the unique attributes of the WA Construction industry many Clients will appoint Building Inspectors to undertake inspection of construction work at key stages of a build. Under AS 4349.0 these inspections must be documented and provided to the Client. Inspectors must acknowledge that these reports will likely be shared with the Builder.
3. Given quality Inspectors are WA Registered Builders in their own right and will have many years of construction experience they have the potential to add significant value to both Clients and Builders during the construction journey.
4. Building inspectors need to acknowledge the primary contractual relationship between Builders and their Clients. Building inspectors need to acknowledge that the views they express and the reports that they issue can have an impact on the primary relation between Builders and Clients. Inspectors must ensure that the language that they use is professional, accurate, able to be supported and supports the broader Client objectives in relation to their construction project.

Committee  
Inspect WA  
November 2022